

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Robert Lee Gist, #77117;)	C.A. No. 3:05-1577-TLW-JRM
)	
Petitioner;)	
)	
vs.)	ORDER
)	
State of South Carolina; John Ozmint,)	
Director of the S.C. Department of)	
Corrections; and Henry D. McMaster,)	
Attorney General of South Carolina;)	
)	
Respondents.)	
_____)	

The Petitioner, proceeding *pro se*, brings this action seeking habeas relief pursuant to 28 U.S.C. § 2254. Petitioner is incarcerated at Allendale Correctional Institution, serving a sentence of life imprisonment on a 1975 murder conviction. Petitioner seeks to have his conviction and sentence reversed.

On June 28, 2005, United States Magistrate Judge Joseph McCrorey, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), filed a Report and Recommendation (“the Report”). In his Report, Magistrate Judge McCrorey recommends that the Petitioner’s complaint be dismissed without prejudice and without requiring the Respondents to file an answer. On July 14, 2005, Petitioner filed objections to the Magistrate’s report.

This Court is charged with reviewing the Magistrate’s report and the Petitioner’s objections thereto. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of this standard, the Court has carefully reviewed, de novo, the Report and the objections thereto and has concluded that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 7); Petitioner's objections are **OVERRULED** (Doc. # 8); and Petitioner's complaint is dismissed without prejudice for failure to state a claim upon which relief may be granted.

IT IS SO ORDERED.

S/ Terry L. Wooten

TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

March 5, 2008

Florence, South Carolina